

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

MATT NASUTI,

Plaintiff,

vs.

WALMART, INC.,

Defendant.

5:20-CV-5023-LLP

ORDER

Pending before the Court is Plaintiff's appeal of Magistrate Judge Wollmann's Order Granting Motion to Compel Plaintiff's Deposition. The appeal is included in Plaintiff's Omnibus Motion. (Doc. 78, pp. 5-7.) The appeal is construed as a motion for reconsideration pursuant to 28 U.S.C. § 636(b)(1)(A) which allows this Court to reconsider a Magistrate Judge's order upon a showing that it is "clearly erroneous or contrary to law."

Despite other pending motions in this case, Defendant has a right to take Plaintiff's deposition as he is the party who elected to pursue litigation. Thus, Plaintiff's motion for reconsideration is denied to the extent that this Court agrees with the Magistrate's directive that the parties have until Thursday, July 15, 2021, to conduct Plaintiff's deposition in the manner described in Defendant's Notice to Take Video Deposition (Doc. 61, Exhibit C) at a time and date mutually agreeable.

If the deposition is not taken by July 15, 2021, this Court will enter an order that it need not be taken at the federal courthouse in Rapid City, South Dakota. To that extent, Plaintiff's motion for reconsideration of the Magistrate's order is granted.

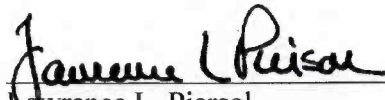
In Plaintiff's Omnibus Motion, he stated that he agreed to be deposed on July 2, 2021. (Doc. 78, p. 10.) The parties have not advised the Court whether the deposition took place. Accordingly,

IT IS ORDERED:

1. That Plaintiff's motion for reconsideration (appeal) of the Magistrate Judge's Order Granting Motion to Compel Plaintiff's Deposition is granted in part and denied in part, as set forth above.
2. That the parties shall promptly advise the Court whether Plaintiff's deposition has been taken, or whether it is scheduled to be taken on or before Thursday, July 15, 2021.

Dated this 7th day of July, 2021.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:

MATTHEW W. THELEN, CLERK

